

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DEXTER LAWRENCE GRIFFIN,

Plaintiff,

v.

BRANDON PRICE,

Defendant.

Case No. 1:21-cv-01518-AWI-BAM (PC)

**ORDER HOLDING FINDINGS AND
RECOMMENDATION IN ABEYANCE AND
GRANTING EXTENSION OF TIME TO FILE
A **NON-PRISONER** APPLICATION TO
PROCEED *IN FORMA PAUPERIS***

(ECF Nos. 13, 14)

THIRTY (30) DAY DEADLINE

Plaintiff Dexter Lawrence Griffin (“Plaintiff”) is a civil detainee proceeding *pro se* in this civil rights action under 42 U.S.C. § 1983. Individuals detained pursuant to California Welfare and Institutions Code § 6600 *et seq.* are civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. *Page v. Torrey*, 201 F.3d 1136, 1140 (9th Cir. 2000).

On October 18, 2021, the assigned magistrate judge issued an order directing Plaintiff to submit a completed application to proceed *in forma pauperis* on the appropriate form for non-prisoners or pay the \$402.00 filing fee to proceed with this action. (ECF No. 7.) The magistrate judge expressly warned Plaintiff that failure to comply with the Court’s order would result in dismissal of this action. (*Id.* at 2.)

The magistrate judge granted an extension of time for Plaintiff to file his application or

1 pay the filing fee on November 3, 2021. (ECF No. 10.) Plaintiff was again expressly warned that
2 failure to comply with the Court's order would result in a recommendation to dismiss this action
3 for failure to obey a court order and failure to prosecute. (*Id.* at 2.) The extended deadline
4 expired, and Plaintiff failed to respond to the Court's orders or otherwise communicate with the
5 Court.

6 Accordingly, on December 20, 2021, the magistrate judge issued findings and
7 recommendations recommending dismissal of this action, without prejudice, due to Plaintiff's
8 failure to obey Court orders and failure to prosecute. (ECF No. 13.) Plaintiff timely filed
9 objections on January 3, 2022. (ECF No. 14.)

10 In his objections, which are difficult to decipher, Plaintiff appears to argue that he
11 submitted an application to proceed *in forma pauperis* that included seven different case numbers.
12 (ECF No. 14, pp. 3, 8.) The remainder of the objections include legal arguments pertaining to
13 other cases Plaintiff apparently filed in other courts, including both *habeas* petitions and civil
14 rights complaints. However, it is not clear from the objections whether Plaintiff made any
15 attempts to submit an application to proceed *in forma pauperis* that included the case number for
16 the instant action, or whether Plaintiff intends to file such an application in the future. The Court
17 notes that no application to proceed *in forma pauperis* was ever filed in this action.

18 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
19 *de novo* review of the case. After carefully reviewing the entire file, including Plaintiff's
20 objections, the Court finds it appropriate to hold the December 20, 2021 findings and
21 recommendation in abeyance and grant Plaintiff a thirty (30) day extension of time to file his
22 application to proceed *in forma pauperis* or to pay the filing fee to proceed with this action.

23 Accordingly, IT IS HEREBY ORDERED as follows:

- 24 1. The December 20, 2021 findings and recommendations are held in abeyance;
- 25 2. The Clerk's Office shall send to Plaintiff an application to proceed *in forma pauperis* for a
26 **non-prisoner**;
- 27 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall submit the
28 completed and signed application to proceed *in forma pauperis* for a **non-prisoner**, or in

1 the alternative, pay the \$402.00 filing fee for this action; and

- 2 4. **Plaintiff is warned that if he fails to file an application to proceed *in forma pauperis***
3 **for a non-prisoner or to pay the filing fee by the extended deadline, the Court will**
4 **adopt the pending findings and recommendations in full and this action will be**
5 **dismissed for failure to prosecute.**

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7 IT IS SO ORDERED.

8 Dated: January 5, 2022


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SENIOR DISTRICT JUDGE